

According to M.P.E.P. §803, restriction by the Examiner of patentably distinct inventions is proper if the claimed inventions are independent and a serious burden would be placed on the Examiner if restriction was not required. Applicants respectfully submit that the presentation of the amended claims presented herein would not place such a serious burden on the Examiner as to require restriction. All of the originally filed claims are related food compositions (as additives or products) inasmuch as the sole purpose for the food additive is for its inclusion into food.

Thus, pursuant to the foregoing, Applicants respectfully submit that any search the Examiner would need to conduct in examining the instant application would not be unduly burdensome. Moreover, the examination of all of the amended claims in the instant application would not place such a serious burden on the Examiner as to require restriction.

Applicants understand the general policy considerations for the Patent Office's requirement for restriction in certain instances. In this instance, however, those considerations do not weigh in favor of restricting the inventions here. In determining the appropriateness of restriction, one must also consider the countervailing consideration that, in each instance, Applicant wishes the Patent Office to examine his or her application with a certain degree of "administrative efficiency" and wishes to have patent claims issue which reflect the breadth of his or her invention.

Applicants respectfully submit that the amended claims are sufficiently narrow to allow the Examiner to determine patentability without being subjected to the serious burden referred to in M.P.E.P. §803. Consequently, Applicants respectfully request that the Examiner withdraw the restriction requirement for the groups of claims which were originally presented but which have been obviated by the presentation of the instant amendment.

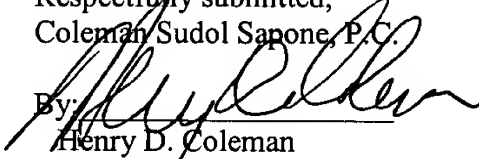
Notwithstanding the foregoing, Applicants provisionally elect (with traverse) the species set forth in claim 4 to prosecute as suggested by the Examiner in paragraph 5AI. of the office action. Claims 1-4, 6-24, 40 and 41 are believed to be readable on the elected species.

The Examiner is respectfully requested to call the undersigned attorney at the number set forth below, should there be a need to discuss this restriction requirement and Applicants proposed election of the amended claims.

In the event that the Examiner accepts Applicants' arguments for limiting or amending the restriction requirement and decides to examine the claims presented in this amendment, please charge Deposit Account 04-0838 for any deficiency in fees now due for the presentation of the multiple dependent claims. An indication of the charge to the authorized Deposit Account is respectfully requested at the time of issuance of a first office action, so that the charge may be accurately tracked. Also enclosed is a change of correspondence address for submission in the instant application.

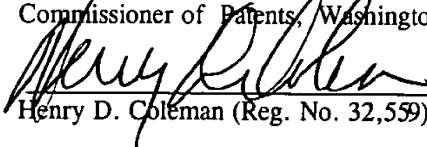
Dated: 10/17/02

Respectfully submitted,
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, D.C., 20231, on October 17, 2002.


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Appendix

Cancel claims 25-39 and amend the remaining claims as follows:

1. (Amended) A food ~~supplement~~ additive, said food ~~supplement~~ additive derived from fibre extracts from two or more types of fruit or vegetables, the fibre extracts having had a majority of soluble solids removed therefrom.
2. (Amended) A food ~~supplement~~ additive according to claim 1 wherein greater than 90% of soluble solids are removed.
3. (Amended) A food ~~supplement~~ additive according to claim 2 wherein from between 93 to 99% of soluble solids are removed.
4. (Amended) A food ~~supplement~~ additive according to claim 1 wherein a first of the two or more types of fruit or vegetables is selected from the group consisting of citrus, tomato, carrot, mango, papaya, banana, pineapple, kiwi fruit, spinach and a second of the two or more types of fruit or vegetables is selected from the group consisting of melon, grape, apple and cranberry.
5. (Amended) A food ~~supplement~~ additive according to claim 4 wherein the melon is selected from the group consisting of watermelon, rock melon, honeydew melon or champagne melon.
6. (Amended) A food ~~supplement~~ additive according to claim 4 wherein the first of the two or more fruit and vegetables is a citrus fruit or carrot and the second of the two or more fruit or vegetables is selected from the group consisting of grape, apple and cranberry.
7. (Amended) A food ~~supplement~~ additive according to claim 6 wherein the first of the two or more types of fruit or vegetables is selected from the group consisting of orange, carrot and grapefruit and the second of the two or more types of fruit or vegetables is selected from the group consisting of grape, apple and cranberry.
8. (Amended) A food ~~supplement~~ additive according to claim 1 or 4 wherein a first of the two or more fruits or vegetables has a calcium content of between 4000 and 15000 ppm and a second of the two or more fruit or vegetables has a calcium content of between 200 and 1500 ppm.
9. (Amended) A food ~~supplement~~ additive according to claim 1 or 4 wherein a first of the two or more fruits or vegetables has a soluble neutral non starch polysaccharide content of between 2

and 3 percent dry weight and a second of the two or more fruit or vegetables has a soluble neutral non starch polysaccharides content of between 1 and 2 percent dry weight.

10. (Amended) A food ~~supplement~~ additive according to claim 1 or 4 wherein a first of the two or more fruits or vegetables has a total uronic acids content of between 20 and 40 percent dry weight and a second of the two or more fruit or vegetables has a total uronic acids content of between 5 and 20 percent dry weight.

11. (Amended) A food ~~supplement~~ additive according to claim 1 or 4 wherein the first of the two or more fruits or vegetables has :

- a calcium content of between 4000 and 15000 ppm;
- a soluble neutral non starch polysaccharides content of between 2 and 3 percent dry weight; and

- a total uronic acids content of between 20 and 40 percent dry weight

and the second of the two or more fruit or vegetables has :

- a calcium content of between 200 and 1500 ppm;
- a soluble neutral non starch polysaccharides content of between 1 and 2 percent dry weight; and
- a total uronic acids content of between 5 and 20 percent dry weight.

12. (Amended) A food ~~supplement~~ additive according to claim 11 wherein the first of the two or more fruit and vegetables is an orange, and the second of the two or more fruit or vegetables is selected from the group consisting of apple, grape and cranberry.

13. (Amended) A food ~~supplement~~ additive according to claim 12 wherein the first of the two or more fruit and vegetables is an orange and the second of the two or more fruit or vegetables is an apple.

14. (Amended) A food ~~supplement~~ additive according to claim 11 wherein the first of the two or more fruit and vegetables is a carrot, and the second of the two or more fruit or vegetables is selected from the group consisting of apple, grape and cranberry.

15. (Amended) A food ~~supplement~~ additive according to claim 14 wherein the first of the two or more fruit and vegetables is a carrot, and the second of the two or more fruit or vegetables is a grape.

16. (Amended) A food ~~supplement~~ additive according to claim 11 wherein the first of the two or more fruit and vegetables is a grapefruit, and the second of the two or more fruit or vegetables is selected from the group consisting of apple, grape and cranberry.

17. (Amended) A food ~~supplement~~ additive according to claim 16 wherein the first of the two or more fruit and vegetables is a grapefruit, and the second of the two or more fruit or vegetables is a cranberry.

18. (Amended) A food product having the food ~~supplement~~ additive of any one of claims 1 to 17, 41 or 42.

19. (Amended) A food product according to claim 18 wherein the food product contains between 1 and 50 % by weight of the food ~~supplement~~ additive.

20. (Amended) A food product according to claim 19 wherein the food product contains between 1 and 30% by weight of the food ~~supplement~~ additive.

21. A food product according to claim 20 wherein the food product is a breakfast cereal.

22. A food product according to claim 20 wherein the food product is a granola bar.

23. (Amended) A food product according to claim 20 wherein the food product is a soup that contains between 2 and 15% of the food ~~supplement~~ additive.

24. (Amended) A food product according to claim 20 wherein the food product is a beverage that contains between 2 and 5 % of the food ~~supplement~~ additive.

Please add the following new claims:

40 (new) A food additive according to claim 1 wherein greater than 90% of soluble solids are removed.

41 (new) A food additive according to claim 2 wherein from between 93 to 99% of soluble solids are removed.